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No. 120] NEW DELHI, FRIDAY, MARCH 1, 1957

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 11th February, 1957

S.R.O. 688.—Whereas the election of Shri Kotagiri Seetharamaswamy of Bobbili, as a member of the Legislative Assembly of the State of Andhra from the Bobbili constituency of that Assembly, has been called in question by an election petition presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Thentu Lakshmu Naidu, village Mugada, Bobbili Tq., Srikakulam District;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, RAJAHMUNDRY (ANDHRA), CAMPING AT TANUKU

Friday, the 25th day of January, 1957

PRESENT:

Sri T. H. M. Sadasivayya, M.A., B.L., *Chairman.*

Sri C. Narasimhacharyulu, B.A., M.L., *Judicial Member.*

Sri M. Sitharamayya, B.A., B.L., *Advocate Member.*

ELECTION PETITION No. 6 OF 1955

(Bobbili Constituency, Srikakulam District).

Between:

Sri Thentu Lakshmu Naidu of Mugada village, Bobbili Taluk, Srikakulam District—Petitioner.

and

- 1. Sri Kotagiri Sitaramaswamy of Bobbili, Srikakulam District.**
- 2. Sri Sunkarapalli Kannayya of Sitanagaram, Bobbili Taluk, Srikakulam District.**
- 3. Sri Adabala Sitharamayya, Mettavalasa, Bobbili Taluk, Srikakulam District.**

4. Sri Sala Kondalarao of Bobbili, Srikakulam District.

5. Sri Muduganti Jaggarai, Bobbili, Srikakulam District—*Respondents*.

Petition, dated 2nd May, 1955 filed under Sections 81, 83 and 117 of the Representation of the People Act, 1951, praying for a declaration that the election of the 1st respondent to the Andhra Legislative Assembly from the Bobbili Constituency in Srikakulam District is void and that the petitioner has been duly elected; in the alternative for a declaration that the 1st respondent is disqualified to sit as a Member of the Legislative Assembly and for costs of the petition.

This petition coming on for final hearing on Wednesday (21st December, 1955) at Eluru, Tuesday (31st January, 1956), Thursday (2nd February, 1956) Thursday (23rd February, 1956) and Friday (24th February 1956) at Vizianagaram on Monday (6th August, 1956) at Bobbili, Monday (19th November, 1956), Tuesday (20th November, 1956), Wednesday (21st November, 1956), Thursday (22nd November, 1956), at Visakhapatnam; on Wednesday (19th December 1956), at Hyderabad; and on Wednesday (9th January, 1957) and Thursday (10th January, 1957), at Kakinada before this Tribunal; upon perusing the petition, written statement of the 1st respondent and other material papers on record, and upon hearing the arguments of Sri P. Rama Rao, advocate for the petitioner; of Sri K. Sarveswara Sastry, Pleader (who argued the case for the 1st respondent) and of Sri K. Suryanarayana Raju, advocate of Tanuku, who appeared for the 1st respondent at the time of the pronouncing of the judgment; and respondents 2 to 5 having allowed the petition to proceed *ex parte*, and the petition having stood over to this day for consideration the Tribunal delivered the following:

JUDGMENT

Sri Thentu Lakshmu Naidu of Mugada village in the Bobbili Taluk files this petition purporting to be under Sections 81, 83 and 117 of the Representation of the People Act, XLIII of 1951 (hereinafter referred to as the Act) praying for a declaration that the election of the 1st respondent herein Sri Kotagiri Seetharamaswamy of Bobbili is void and that the petitioner has been duly elected. As an alternative relief he prays for a declaration that the 1st respondent is disqualified from sitting as a member in the Andhra Legislative Assembly.

2. The petitioner and the five respondents herein filed nominations for the election to the Andhra Legislative Assembly from the Bobbili Constituency in the Srikakulam District in the General Elections held in February 1955. The election for Bobbili Constituency now in dispute was held on 15th February, 1955. The nomination of the 4th respondent was rejected by the Returning Officer on the ground that he was less than 25 years of age by the date of nomination. The 5th respondent withdrew his nomination after scrutiny. The contesting candidates that remained in the arena were the petitioner and respondents 1 to 3. Out of the total valid votes polled, the votes secured by each of the four candidates are as follows:—

1st respondent	..	..	..	..	14,031
Petitioner	..	..	..	..	13,675
2nd respondent	..	..	..	..	4,488
3rd respondent	..	..	..	..	1,400

The 1st respondent was duly declared elected.

3. The petitioner contested the election as a representative of the Praja Socialist Party, while the 1st respondent had been set up by the Congress Party. The petitioner claims that his party wields dominating influence in this particular constituency and maintains that he would have secured the largest number of votes but for the fact that there has been no free and fair election by reason of corrupt practices and undue influence exercised by the contesting respondents generally and particularly by the 1st respondent. The grounds on which the legality of the election of the 1st respondent is impugned fall under two major heads, *viz.*,

- (1) Major corrupt practices, such as bribery and undue influence.
- (2) Submission of false return of election expenses.

The following instances of bribery are enumerated in the petition:—

- (a) 1st respondent and his agent offered a bribe of Rs. 300 to Medara and Yadava voters of 9th Ward of Bobbili to induce them to abstain from voting and prevented about 110 voters from going to the polling booth.

- (b) The 1st respondent treated *Gadabas* (hill-tribe) of *Rati Cheruvu Valasa* and turned them away from voting representing falsely that their names were not in the voters' list.
- (c) About 275 voters of *Tentuvulasa*, *Peddupalli*, *Lakshmipuram* and *Donkinivalasa* were offered a bribe of Rs. 1,400 by the 1st respondent and his agent and they were brought in a motor van to the polling station at *Donkinivalasa* where they were gathered at a place and taken to the polling booth in batches.
- (d) At *Koduru* centre, 1st respondent offered a bribe of Rs. 740 and thereby secured 390 votes.
- (e) The voters of *Soudentivalasa* were conveyed in a hired double bullock bandy to the polling station at *Korapu Kothavalasa* for purposes of voting at the expense of the 1st respondent.
- (f) A radio set was promised to the villagers of *Korapu Kothavalasa* at the cost of the 1st respondent on the eve of the election.
- (g) 1st respondent promised to repair at his own cost *Rama Mandir* at *Jagannadhapuram* as an inducement to the voters in that village to vote in his favour.

4. The following are the instances of exercise of undue influence as alleged by the petitioner:—

- (a) 1st respondent being a Director of the District Co-operative Central Bank, *Srikakulam*, and President of the *Bobbili Taluk Co-operative Union*, promised to the *Village Co-operative Societies* in the district that he would use his office, if elected to the Legislature and secure larger sums of money as loans to the Societies if the members of that Society supported his candidature.
- (b) 1st respondent as President of the District Congress Committee made public speeches that he would use his influence with the Government and see that the High School at *Bobbili* is upgraded into a College and also bring into being the 'Bontu Mukku' project for irrigation.
- (c) 1st respondent made false statements in a pamphlet issued by him that as a Congress worker he went to Jail and suffered imprisonment. He wanted to secure the sympathy of the voters by this false propaganda.
- (d) One *B. Appalaswami*, an agent to the 1st respondent, issued a pamphlet on 9th February, 1955 alleging that the petitioner was put up as a candidate in this election solely because of his caste and that he thereby created prejudice among the voters.

5. The case of the petitioner with regard to the alleged false return of election expenses is that 1st respondent spent about Rs. 20,000 in connection with this election and thus exceeded the maximum limit prescribed under Rule 117 of the rules framed under the Act, which is Rs. 8,000. He also made a false return of the election expenses by not showing on the receipts' side the sum of Rs. 11,000 received by him from the *Andhra Provincial Congress Committee*, *Vijayawada* and also another sum of Rs. 5,000 received as a donation from a private source. On the expenditure side, the petitioner alleged that the following items of expenditure were incurred by the 1st respondent but were not shown in the election return:—

- (a) The expenses incurred as remuneration for the polling agents, clerks, etc., were not shown in the return. The 1st respondent spent a large amount under this head. On the polling day itself he spent about Rs. 5,000.
- (b) He spent more on refreshments than that shown in the election return. He spent for the procession with 60 yokes of bulls about Rs. 160. The villagers that attended this procession were fed at an expense of Rs. 200. These items were not shown in the election return.

6. On an objection taken by the 1st respondent that proper particulars of the instances of corrupt practices alleged by the petitioner were not given in the list annexed to the petition, the petitioner gave a fresh verified list of instances with better particulars. While doing so, he added two new instances, instances (6) and (7), which do not find a place in the original list. We disallowed these two instances (6) and (7) as they are fresh grounds of attack and allowed the rest as mentioned in the new list of particulars.

7. The 1st respondent is the only contesting respondent in this case. The others were *ex parte*. The 1st respondent has categorically denied all the

material allegations of corrupt practices alleged by the petitioner. He further contended that the list of particulars appended to the petition did not mention the names of persons alleged to have committed the corrupt practices and that the allegations are vague. He denied that he ever misused his office as Director of the Co-operative Central Bank or the President of the Taluk Co-operative Union to secure votes. He also denied that he ever held out to the public that if he were elected he would use his influence with the Government to up-grading the High School at Bobbili to a College or bring into being the 'Bontu Mukku' Irrigation Project. He contended that he was in Jail for 21 days along with Sri Desabhakta Konda Venkatappayya Garu and others in connection with M. C. No. 7 of 1932 on the file of the District Magistrate, Guntur, and that he was treated by the Government as a political sufferer. He denied that B. Appalaswami was his follower or his canvassing agent and that the pamphlet alleged to have been issued by the said Appalaswami was at his instance. Even if the publication of such a pamphlet were true, it did not tend to create any caste-bias among the voters. In fact, the petitioner himself was canvassing on the strength of his caste among his castemen who constitute a majority of the constituency.

8. With regard to the objection taken to his return of election expenses, the 1st respondent denied that he spent about Rs. 20,000 for his election or that he made any false declaration in the election return. The amounts spent by him did not exceed the maximum fixed under Rule 117. He denied that he spent large sums of money on his agents or that on the election day alone he spent Rs. 5,000. He denied that he spent any money for the procession of the bulls and asserted that it was a demonstration of voluntary effort on the part of the people and that no amount was spent for it. The 1st respondent admits having received Rs. 11,000 from the Andhra Provincial Congress Committee at Vijayawada but avers that this amount was received by him in his capacity as the President of the District Congress Committee and that too for the specific purpose of propagating the Congress election manifesto in the whole district. No part of this amount was used for promoting the prospects of his own election. That was why it was not shown in the election return. He also denied having received Rs. 5,000 as donation from any private source. He further contended that there was no proper verification of the petition filed by the petitioner in the manner laid down in the Code of Civil Procedure.

9. The following issues were framed after hearing both parties:—

- (1) Whether the election was not a free one by reason of corrupt practices and undue influence exercise by the 1st respondent?
- (2) Whether the corrupt practices alleged in para. 5 of the petition and in the annexure to it are true?
- (3) Whether the allegation of corrupt practices mentioned in the petition cannot be considered in view of their not being mentioned in the list of instances attached to the petition?
- (4) Whether the petitioner is not entitled to take the pleas mentioned in issue 2 as he had not given full particulars as required under section 83(2) of the Representation of the People Act?
- (5) Whether the 1st respondent misused his office or offices as Director of the Co-operative Central Bank and President of the Co-operative Taluk Union to secure votes?
- (6) Whether any false statement of casteism had been made by Shri B. Appalaswami, an alleged agent of the 1st respondent, against the petitioner? If so, whether it affects the election?
- (7) Whether the 1st respondent filed only one declaration of election return as a candidate and thereby committed breach of the procedure prescribed for the purpose? If so, what is the effect thereof?
- (8) Whether the 1st respondent made a false declaration in relation to the return of election expenses?
- (9) Whether the sum of Rs. 11,000 received by the 1st respondent from the party-headquarters was for the election expenses? If so, has he accounted for the same?
- (10) Whether the 1st respondent received a sum of Rs. 5,000 from a private source and utilised this amount for the election expenses?
- (11) Whether the 1st respondent has spent more amount than authorised under the law? If so, what is its effect?
- (12) Whether there was a proper verification of the petition and the list of particulars enclosed to it as required under section 83(1) of the Representation of the People Act?

(13) Whether the election was materially affected for all or any of the reasons stated in that petition?

(14) To what relief is the petitioner entitled?

10. During the course of arguments the petitioner's advocate did not press issues 1, 7 and 10 and filed a memo to that effect on 9th January, 1957. So it is unnecessary to consider these issues.

11. *Issue 12.*—This relates to the mode of verification of the petition and the list of particulars enclosed to it as required under section 83(1) of the Act. On the objection taken by the 1st respondent to the verification, the petitioner filed I.A. No. 9 of 1955 for amendment of the verification para in the petition as well as the list of particulars. The 1st respondent filed objections to the petition and after hearing both sides, this Tribunal passed an order allowing the petition. The verification as amended is in the proper form. Hence this issue is found against the 1st respondent.

12. *Issues 2, 3, and 4.*—Issues 3 and 4 raise the technical question whether, in view of better particulars not having been given in the list of particulars, the plea raised in issue 2 as regards corrupt practices cannot be considered. After the issues were framed, the petitioner filed a petition, M.P. No. 2 of 1956, the receiving a verified list of instances with further and better particulars as required under section 83 (3) of the Act. After hearing both sides, this Tribunal allowed the petition except as regards instances (6) and (7) mentioned therein. Instances (6) and (7) have been disallowed as they were not originally mentioned in the petition or in the list of particulars appended to it and as they constituted new grounds of attack. No evidence was also let in as regards these two new instances. As regards the other instances, the verified list gave sufficient and better particulars as required under section 83 (2) of the Act. These instances alone will now be taken into consideration in deciding issue 2. In view of this, issues, 3 and 4 lose much of their importance. Whether the details given in the subsequent verified list are sufficient or not will be considered as each instance is taken up for consideration. We hold that the corrupt practices under issue 2 as mentioned in the further list of verified particulars can be considered. Issues 3 and 4 are held against the 1st respondent.

13. Under issue 2 we propose to discuss the various instances of corrupt practices in the order in which we have mentioned in paras. 2 and 3 *supra* and give our finding on each of them.

14. *Instance (a).*—It is alleged that the 1st respondent and his agents offered a bribe of Rs. 300 to the Medara and Yadava voters of 9th Ward of Bobbili Town numbering about 110 and induced them to abstain from exercising their franchise and that they accordingly did not vote at this election. This allegation is sought to be supported by the solitary evidence of P.W. 12. P.W. 12 Palapala Appalaswamy is the Vice-President of the Bobbili Panchayat Board and a member of the Praja Socialist Party to which the petitioner also belongs. He deposed that Sidda Narayana (R.W. 5) and Voola Pakiru (R.W. 4) worked for the 1st respondent in this election and that they both persuaded the voters in the 9th Ward of Bobbili, which consisted mainly of Medaras and Yadavas, not to go to the polling booth and exercise their franchise, that consequently those voters refrained from going to the polling booth on account of their having received money from the 1st respondent, that such voters were 100 in number and that they told him that the above-named two persons paid them Rs. 200. He did not personally see moneys being paid to the voters. No direct witness has been examined to speak to this alleged tampering with voters. Kola Appalaswami, a Medara, and Chukka Achodu, a Yadava, are alleged to have told P.W. 12 about the giving of money. But they were not examined. Not a single voter of the 9th ward or any other resident of that locality was examined to prove this allegation. It was elicited in the cross-examination of P.W. 12 that there were misunderstandings between P.W. 12 and the proprietor of the Sugar Factory at Bobbili and that this proprietor is related to the 1st respondent. Further, P.W. 12 is an interested witness as he admittedly worked for the petitioner at Bobbili for this election.

15. As against this evidence, there is the evidence of R.Ws. 3, 4 and 5. R.W. 3 Chukka Venkayya is a resident and voter of the 9th ward. His wife also is a voter. He denied that R.Ws. 4 and 5 Voola Pakiru and Sidda Narayanaswamy ever gave any bribe to the voters of the 9th ward or that they dissuaded any of them from going to the polling booth. R.Ws. 4 and 5 are the persons who are alleged to have given the bribe to the voters of the 9th ward. They flatly denied the allegation made against them. R.W. 4 is a resident of the 12th ward and he is not a voter at all. He deposed that he was not at Bobbili on the date of the

polling. R.W. 5 lives in the 8th ward and he deposed that he did not work for the 1st respondent in this election. Apart from P.W. 12's evidence regarding this matter, there is practically no evidence worth the name on the side of the petitioner to show that the 1st respondent or his agents paid any bribe to the voters of the 9th ward or that any of the voters abstained from voting on account of any such bribe. We have, therefore, no hesitation in finding that the 1st respondent or his agent did not offer any bribe to the voters of the 9th ward or dissuaded them from voting. This instance is, therefore, found to be not proved.

16. *Instance (b).*—It is alleged that the 1st respondent treated the Gadabas (hill tribe) of Rati Cheruvu Valasa and turned them away from voting saying that their names were not in the voters' list. There is absolutely no evidence adduced by the petitioner to prove this allegation. The petitioner also does not speak about this in his evidence and hence this instance is found to be not proved.

17. *Instance (c).*—It is alleged that the voters of four villages in this constituency, Tentuvallasa, Pedapalli, Lakshmipuram and Donkinivalasa were bribed to a tune of Rs. 1,400 and that they were conveyed in a motor van to Donkinivalasa where the polling station was located, that they were secured at one place in Donkinivalasa and taken to the polling booth by batches. The petitioner examined P.Ws. 1 to 6 in support of this allegation. The 1st respondent examined R.Ws. 10 to 12 denying the same. P.W. 1 Vuppala Lakshmanarao is a coffee hotel keeper running his stall near the Railway Station at Donkinivalasa. On the polling day, he opened his coffee hotel near the polling booth at Donkinivalasa. He deposed that Kotagiri Narasimgarao (R.W. 10) brought some voters from the neighbouring villages to his hotel, entertained them with coffee and tiffin, and paid him a sum of Rs. 18 towards cost of refreshments supplied to them. That was the first time he saw R.W. 10. He is not able to give the name of any voter who was entertained at his hotel at the instance of R.W. 10 on that day. He says that he was supplying refreshments to the voters from 10 a.m. till 5 in the evening and that he was noting on a piece of paper the prices of refreshment supplied to each voter and that he took the amount of Rs. 18 from R.W. 10 in the evening in a lump sum. This paper is not produced. He says that P.W. 3 Chintala Simhachalam was present when R.W. 10 gave him the order. He admits that P.W. 3 worked for the petitioner in this election. It is improbable that R.W. 10, who is the brother of the 1st respondent, would have given this order for supplying refreshments to the voters on the polling day near the polling booth and that too in the presence of a canvassing agent of the petitioner himself. If P.W. 1 had opened his hotel on the election day at the polling booth, a number of persons would have taken coffee in his hotel on that day and any of them could have been cited and examined to prove this fact.

18. P.W. 3 was a canvasser for the petitioner at Donkinivalasa. He is a mazdoor working in a godown near the Donkinivalasa Railway Station. He says that he saw R.W. 10 paying Rs. 18 or Rs. 19 to P.W. 1. He further deposed that the voters of Pedapalli, Tentuvallasa and Lakshmipuram were brought in a motor van to the polling booth and that the said van made 10 or 15 trips on that day. He belongs to the same caste as the petitioner. He is not able to give the name of any person who accompanied the voters in the van and exhorted them to vote for the 1st respondent. He did not report this to the Polling Officer or to any one at the Polling Station on that day. When a motor van had made 10 or 15 trips to the same polling booth on a single day, it is not difficult to hand over the van to the police who would be at the spot during the election. Except the vague evidence that the voters of four villages came in this van, no name of any voter who came in that van was mentioned by this witness.

19. P.W. 4 Dalari Bangari Naidu is a resident of Pedapalli. He says he exercised his franchise at 11 A.M. and returned to his village, that a lorry came at about 12 noon to his village and carried female voters to Donkinivalasa in two trips. He adds that his wife and daughter also went in that van. If so, they are the best witnesses to speak to this fact. They were not examined. He cannot give the name of any other female voter that went in the van. No female voters of this village were examined by the petitioner.

20. P.W. 5 Chappa Akku Naidu is a resident of Tentuvallasa. He says that he did not work for the petitioner and that he exercised his franchise between 11 A.M. and 12 noon and yet stayed at the polling booth till the evening "to see the fun". He deposed that female and imbecile voters were brought in the van. He gave the names of some of the female voters who came by that van. But none of them was examined by the petitioner.

21. P.W. 6 Lokavarapu Narasimgarao is a resident of Donkinivalasa. He owns a Killi shop at the Railway Station. He deposed that he went to the polling booth at 10 A.M. but that the Polling Officer refused to allow him to vote as there

was some mistake regarding his name in the electoral roll and that at 4 P.M. he took a certificate of identification from the Village Munsifs of Tentuvallasa and Donkinivalasa and then exercised his franchise. He deposed that between 11 A.M. and 4 P.M. a green-coloured van bearing No. ORK. 141 brought female voters to the polling booth in 10 or 15 trips, that he saw R.W. 10 giving a bundle of one-rupee currency notes to Tentu Narayana the paternal uncle of the Village Munsif of Tentuvallasa, requesting him to ask the voters of his village to vote for the 1st respondent and that Tentu Narayana distributed the money to the voters. He further says that this incident of giving money to Tentu Narayana took place at a distance of about 40 yards from the polling booth. He said he saw it from a distance of 5 or 6 yards standing on a road, which is a public highway. There were 5 or 6 other persons present when R.W. 10 was giving the money. He overheard the conversation between R.W. 10 and T. Narayana.

22. It is highly improbable that R.W. 10 would dare indulge in the alleged corrupt practice very near the polling booth and that too near a public highway at a distance of 5 or 6 yards from this witness. P.W. 6 further deposed that he saw the distribution of money to the voters. It is incredible that a voter will be bribed in the sight of strangers standing by. If at 10 A.M. the Polling Officer refused to allow this witness to exercise his franchise, he would have taken the certificate of identification immediately from the Village Munsifs, who, under the rules, are expected to be at the polling booths during the election time to identify the voters. It is not necessary for this witness to stay till 4 P.M. to get this certificate of identification. We are also not impressed with the demeanour of this witness, as he was making very prevaricative statements in the witness box.

23. P.W. 2 Aru Thammi Naidu is a resident of Pedapalli. He says that he went to Donkinivalasa on foot to cast his vote and that he returned home by 11 A.M. He further deposed that after he returned to his village a jeep came and carried the female voters to the polling booth in two trips. He says that Narasimgarao, the brother of the 1st respondent, and another Avula Appalaswami came in that vehicle to take these voters. He does not know who this brother of the 1st respondent is and even now is not able to identify him. Avula Appalaswami is a resident of that village and is on friendly terms with him. He was not examined in this case. This witness says he cannot identify the jeep that carried the voters. None of the female voters that were conveyed in that jeep was examined.

24. As against this evidence, there is the evidence of R.W. 10, R.W. 11 and R.W. 12. R.W. 10 Kotaguri Narasayya is the elder brother of the 1st respondent. He deposed that on the election day he was at Bobbili itself looking after the 2nd ward which contained many *gosha* lady-voters belonging to his community. He denied that he went to the Donkinivalasa polling booth that day. Donkinivalasa is about 10 or 12 miles from Bobbili. He denied having given any money to Tentu Narayana at Donkinivalasa or anywhere for being distributed to the voters. He also denied that he gave any order to P.W. 1 to give refreshments to the voters on the polling day or that he paid Rs. 18 to him for refreshments supplied to the voters.

25. R.W. 11 is Tentu Narayana to whom R.W. 10 is alleged to have given money for being distributed among the voters at Donkinivalasa. He denied any manner of acquaintance with R.W. 10. He said that R.W. 10 did not give him money for being given to the voters; nor did he give any money to the voters. He also deposed that no motor vehicle came to Tentuvallasa for carrying any voters. Tentuvallasa lies between Pedapalli and Donkinivalasa, and if any motor vehicle is to go from Donkinivalasa to Pedapalli it has to pass through Tentuvallasa. He deposed that on the election day no motor vehicle passed through his village.

26. R.W. 12 Arnipalli Simbachalam is a resident of Donkinivalasa. He worked as an agent of the 1st respondent on the election day. He was at the polling booth from 6 A.M. to 12 noon and from 1 P.M. to 6 P.M. on the day of the election. He deposed that R.W. 10 did not come to Donkinivalasa at all on that day and that R.W. 11 did not work for the Congress in the last election. He further deposed that no voters were brought to Donkinivalasa polling booth in motor vehicles on that day.

26(a). The petitioner examined as P.W. 17 deposed that he did not see any voters being brought in motor vehicles and that he was at Donkinivalasa on the election day between 2 P.M. and 3 P.M. If the motor van in question had made 10 to 15 trips to this booth after 11 A.M., the petitioner would certainly have seen it at least once between 2 P.M. and 3 P.M.

27. There is no reliable evidence on the side of the petitioner to show that Rs. 1,400 or any amount was paid by the 1st respondent or his agent to any of the voters. There is also no evidence worth the name to show that voters were conveyed in the van ORK. 141. As we stated above, when a single van was moving to the same polling booth a number of times on one single day, covering four villages, it would have been easy for the petitioner or his agent to hand over the van to the police. There is also no tangible evidence as to the number of voters that are said to have been taken in the van on each trip. We, therefore, find that the petitioner has not proved the allegations made by him regarding this instance.

28. Instance (d).—This relates to an alleged payment of Rs. 740 to Kommana Ramulu (R.W. 6) of Koduru village for the purchase of 390 votes on behalf of the 1st respondent. The case of the petitioner as regards this instance is that the 1st respondent went in his car to Koduru village on the day previous to the election at about 5 P.M., took R.W. 6 to the village tank bund and there gave him a bundle of currency notes worth Rs. 740 and asked him to purchase votes for him with that money. K. Ramulu (R.W. 6) is alleged to have given this money to the voters of Koduru village either by himself or through others. This version is sought to be supported by the evidence of P.Ws. 8 to 11. P.W. 11 Vemu Satyanarayana is the direct witness who says that he saw the 1st respondent handing over Rs. 740 to R.W. 6 at the tank bund. He is a member of the Praja Socialist Party and he worked for the petitioner in the election. He says he grew suspicious when the 1st respondent and R.W. 6 were going to the tank bund at about 5 P.M. on 14th February 1955, accompanied them and saw this occurrence. In another breath he says that he went to the tank bund at that time to answer the calls of nature. He deposes that he heard R.W. 1 telling R.W. 6 that Rs. 740 were being given to him. He further states that he reported this to the petitioner at Bobbili that very night. Curiously enough, it was not mentioned in the petition or in the list of particulars annexed to it that this amount of Rs. 740 was sent to K. Ramulu or that the 1st respondent gave this amount to him at the tank bund. If the petitioner had known of this even on the night of 14th February, 1955, he would certainly have mentioned it in the petition itself. Further, the evidence of P.W. 11 is highly artificial and unreliable. P.W. 11 would say that he accosted the 1st respondent and R.W. 6 at that time and told them that votes could not be purchased in that manner. It is unbelievable that the 1st respondent would have given money to R.W. 6 in the presence of this witness.

29. P.W. 8 Surinati Ramamurthi deposed that he saw R.W. 6 distributing money to the voters. This witness also belongs to the petitioner's party. His evidence discloses that himself and R.W. 6 are ranged in opposite factions in the village. R.W. 6 K. Ramulu is the Vice-President of the Panchayat Board of that village. There was a street light in front of the house of this witness. This light was later removed and put elsewhere. It is suggested that this was done at the instance of R.W. 6. This witness and R.W. 6 contested the Panchayat Board elections for the first ward. R.W. 6 succeeded and this witness failed. R.W. 6 was the President-Delegate of the Panchayat Board of this village. P.W. 8 and some others petitioned to the Government against R.W. 6 alleging that he was in unauthorised occupation of some Government poramboke land. This witness deposed that money was distributed to the voters in open street and that he saw it. He says that he conveyed the news to the petitioner on the same day. He could not give the name of any voter who received the money.

30. P.W. 9 Marpina Jagannatham deposed that he worked as an agent of the 1st respondent and that R.W. 6 paid him Rs. 5 towards his expenses. He further says that he heard R.W. 6 telling voters that he would pay half a rupee to each voter. He did not actually see any money being paid to the voters. The allegation that he was paid Rs. 5 towards his remuneration is not mentioned by the petitioner in his petition or in the verified list of particulars filed by him. It is suggested that this witness has changed sides on the day prior to the election and worked for the petitioner.

31. P.W. 10 Vangapandu Swami Naidu is also one of the workers for the petitioner. He deposed that he saw R.W. 6 handing over a bundle of notes to R.W. 9 for being distributed to the voters. He also saw R.W. 9 distributing money to the voters. He admitted that R.W. 6 filed a criminal complaint against him while he was President-Delegate of the Panchayat Board for defiling the water of the village well. He is also a member of the Praja Socialist Party.

32. As against this evidence of the petitioner, there is the evidence of R.Ws. 6 to 9 for the 1st respondent. R.W. 6 is Kommana Ramulu. He denied having worked for the 1st respondent in this election. He also denied having distributed any money to the voters of Koduru. He said he did not pay Rs. 5 to P.W. 9 for

his expenses to work as an agent. He further deposed that P.W. 9 was won over to the side of the petitioner on the day of the election and that he worked for the petitioner on that day. R.W. 7 is the father of P.W. 9. It is curious that father and son are ranged on opposite sides in this case. R.W. 7 deposed that his son P.W. 9 worked for the 1st respondent till the day prior to the date of election and that on 14 February 1955, the petitioner along with caste-elders, persuaded him and P.W. 9 to work for him as they all belong to the same community. P.W. 9 yielded but R.W. 7 did not. P.W. 9 worked for the petitioner on the day of election. R.W. 7 further deposed that R.W. 6 did not give any money to the voters in the village.

33. R.W. 8 Maripi China Appala Naidu is the President of the Koduru Panchayat Board. He is closely related to the petitioner. He deposed that the 1st respondent did not come to Koduru on the day prior to the election. He further deposed that P.W. 9 worked for the petitioner on the election day, though he was working for the 1st respondent till the previous day.

34. R.W. 9 Bogu Johnesu is the witness to whom P.W. 6 is alleged to have given money for distribution to the voters. This witness denied that any such money was given to him or that he distributed any money to the voters. There is, therefore, no credible evidence on the side of the petitioner to show that the 1st respondent or his agent paid any money to the voters of Koduru. We, therefore, find against the petitioner as regards this instance also.

35. *Instance (e).*—It is alleged that the voters of Soudantivalasa were conveyed in double bullock bandies to Korapu Kothavalasa on 15th February 1955 and that the 1st respondent paid the hire for these bandies. P.W. 7 is the only witness examined to prove this allegation. He is a resident of Korapu Kothavalasa. He says that he belongs to the Congress Party, that he worked as an agent of the 1st respondent at the polling booth of Korapu Kothavalasa, that voters of Soudantivalasa were brought in six double bullock carts by G. Lakshmu Naidu (R.W. 13) and that R.W. 13 paid the hire to the cartmen at the rate of Rs. 3 per cart. He does not know the name of any of the voters who came in that bandy nor the names of the cartmen. He is not even a four-anna member of the Congress. R.W. 13 Reddi Lakshmu Naidu is the President of the Panchayat Board. In 1947 he filed a complaint against this witness for assault. It is suggested that P.W. 7 filed a counter complaint against R.W. 13. But P.W. 7 says that he does not remember it. None of the cartmen or the voters that came in that bandy was examined in this case.

36. R.W. 13 was examined on behalf of the 1st respondent. He deposed that he did not work for the 1st respondent in the last election and that he did not bring any voters in the double bullock carts from Soudantivalasa, to Korapu Kothavalasa. He denied having given Rs. 3 to P.W. 7 on that day. He further deposed that long after the election petition was filed the petitioner came to his village, gathered some caste-elders and asked them to procure evidence to the effect that the 1st respondent bribed some of the voters and brought them in bandies hired by the 1st respondent. P.W. 7 also persuaded R.W. 13 to give evidence but he refused. There are two factions in the village—one headed by P.W. 7 and another by R.W. 13. The name of R.W. 13 does not find a place in the petition or in the list of particulars annexed to it. It was only in the subsequent list of particulars that his name was mentioned. We feel inclined to believe that P.W. 7 and R.W. 13 were ranged on opposite sides in this case only to give vent to their personal rancour. We are not satisfied from the evidence on record that the voters of Soudantivalasa were brought on bandies to Korapu Kothavalasa or that the 1st respondent's agent paid any hire for such bandies.

37. *Instances (f) and (g).*—No evidence was let in by the petitioner to prove these allegations. They were not also pressed at the time of arguments. Hence, these instances are found against the petitioner.

38. Corrupt practices and particularly charges of bribery are in the nature of criminal offences and every instance of corrupt practice must be strictly proved as in a criminal case beyond all possibility of doubt. The burden of proving them lies heavily on the petitioner, who seeks to set aside the election. [Vide *Parthasaradhi v. Ramachandra Rao and others* (1)]. In this case, the petitioner has not discharged the burden cast upon him in proving all or any of the instances of corrupt practices pleaded by him. We are not satisfied with the evidence let in by the petitioner. We, therefore, hold under issue 2 that the corrupt practices alleged in para. 5 of the petition and in the annexure to it are not proved.

39. *Issue 5.*—This issue deals with undue influence said to have been exercised by the 1st respondent over the voters. The 1st respondent is the

Director of the Co-operative Central Bank, Srikakulam, and also the President of the Co-operative Taluk Union. It is alleged that the 1st respondent falsely represented to the voters who are members of the Village Co-operative Societies that if his candidature were supported by them he would use his position in the Central Bank and the Taluk Union in securing larger credit facilities to them. It is pleaded that by these false promises he secured more votes to the 1st respondent. P.Ws. 13 and 14, Thontu China Appala Naidu and Yamana China Swami respectively, were examined by the petitioner to prove this allegation. P.W. 13 is a resident of Mugada village. He deposed that on 15th January, 1955, the 1st respondent came to his village and convened a meeting at which about 100 people congregated. At that meeting he appealed to the voters to vote for him and said that, if they did so, he would get larger sums sanctioned by way of loans to their Co-operative Societies from the Central Bank and the Taluk Union. P.W. 13 further deposed that the 1st respondent stated that if they did not support him he would see that no loans are sanctioned to their societies. This witness is a member of the Co-operative Society, both prior to and after the meeting. He is not able to say whether credit facilities of the Society were in any way affected after this meeting.

40. P.W. 14 Yamana China Swami corroborated P.W. 13. He deposed that the Village Officers and the President of the Co-operative Society were also present at the meeting. The Village Officers were not examined. P.W. 14 admitted that loans were being sanctioned as usual even after the meeting held by the 1st respondent. This witness was fined Rs. 15 in a gambling case.

41. The 1st respondent examined R.Ws. 1 and 2 to disprove this allegation made against him. R.W. 1 Matcha Somi Naidu is the President of the Co-operative Society at Mugada. P.Ws. 13 and 14 admit that this witness was present at the meeting held on 15th January, 1955. He deposed that the 1st respondent did not say at that meeting that he would get more loans to their Co-operative Societies if the voters supported his candidature. According to his evidence, the 1st respondent made no reference at all to the Co-operative Societies at that meeting. R.W. 2 Thontu Poli Naidu was the polling agent at Mugada for the 1st respondent. He also attended the meeting on 15th January 1955, and he corroborated R.W. 1. The petitioner has failed to show that the 1st respondent made any such false promises and thus abused his official position. This meeting is alleged to have taken place on 15th January 1955. If it were true, it could not have escaped the notice of the petitioner and the petitioner would certainly have issued pamphlets exposing the 1st respondent with regard to the false propaganda that he was carrying on. We are not satisfied with the evidence let in by the petitioner in this regard. We, therefore, find this issue against the petitioner.

42. Issue 6.—It is alleged that one B. Appalaswami, a follower and a canvassing agent of the 1st respondent, issued a pamphlet on 9th February 1955 containing allegations that the petitioner was put up as a candidate by his party solely because of his caste and that the 1st respondent thereby created a caste-bias among the electorate and thus prejudiced the prospects of the petitioner. Ex.A10 is the pamphlet relied upon in support of this allegation. This pamphlet is an appeal to the voters under the name of B. Appalaswami dated 9th February 1955. The passage relied upon by the petitioner in this pamphlet is as follows:—

Mara!a Yiinaadu Kundaas Kulathathvamu Painec aadhaarapadi Mugada graamamu mundi Koththagaa oka naayudugaarini thetchi M.L.A. gaa nilabettaaru. Pai avakathokala tho pani leekundaa kaali Gangayya maathram Ennikala prachaaram Jooru Joorugaa cheesthunnaaru kaani, neeti cnnikalu naati controle roojulaloo vatchina ennikalu kaavani, Jaathinibathi ootu ithec thelivi thakkuvaloo prazalu leerani bandhupreethiki Raajya Paripaalenaku sambandhamu lecdani. Yil Socialist party—vaariki danka bajaayinchi ruzuvu cheyyavalasina baadhyatha prayala mundu vunnadi.

43. No oral evidence was let in in this case by the petitioner as to who this B. Appalaswami is and how Ex. A10 reacted upon the electorate. Even the petitioner does not speak about Ex. A10 in his evidence. It is alleged in the petition that B. Appalaswami is an agent of the 1st respondent. There is no evidence on the side of the petitioner to prove this. The 1st respondent denied in his evidence that he was his agent. He deposed that he did not get Ex. A10 printed or distributed. He knew of it only after the election petition was filed. There was no cross-examination by the petitioner on this point. There is, therefore, no proof that Ex. A10 was published by the 1st respondent or his agent. Further, it has to be seen whether this allegation would be a major corrupt practice coming under section 123(5) or a minor corrupt practice coming under

section 124(5). We do not think that these allegations, even if true, would come under either of these sections. Ex. A10 is an appeal to the voters wherein the claims of the Congress Party as against the Praja Socialist Party were discussed. The Praja Socialist Party was accused therein of having set up the petitioner with the hope that his caste-people would support him in the election and that such a hope is not a well-founded one. Such an allegation cannot be said to be "in relation to the personal character or conduct of the candidate" coming under section 123(5) of the Act. Further, this is no statement of fact but is an expression of opinion as to the lines on which the Praja Socialist Party selected its candidates. We do not also think that Ex. A10 comes within the purview of section 124(5) of the Act. Under this section there must be a systematic appeal to vote or to refrain from voting on grounds of caste. Ex. A10 is not an appeal to voters to vote or not to vote on grounds of caste, but is a discussion of the policies of the Praja Socialist Party in the matter of the selection of its candidates and it is much less a systematic appeal. A solitary pamphlet like Ex. A10 cannot be said to be a systematic appeal to the voters. There is also no evidence to show that Ex. A10 has in any way influenced the electorate. Both on the question of fact as well as on law, we hold this issue against the petitioner.

44. *Issues 8 to 11.*—These are the issues upon which the petitioner laid most of his emphasis to prove his case. They relate to the election expenses of the 1st respondent. It is the case of the petitioner that while the maximum limit prescribed towards election expenses for a candidate is Rs. 8,000, the 1st respondent spent about Rs. 20,000. He further alleged that the 1st respondent got Rs. 11,000 from the President of the Andhra Provincial Congress Committee towards his individual expenses and also another donation of Rs. 5,000 from a private source and that he did not show these two items on the receipts' side in the election return. According to his contention, these amounts were also spent for the election expenses. He further contends that the 1st respondent spent considerable sums of money on hand-bills, appeals, symbols, etc., a sum of Rs. 5,000 on polling agents, clerks, messengers, etc., large sums on refreshments and also about Rs. 400 towards expenses of the procession of 60 pairs of yoked bulls organised by the 1st respondent in the streets of Bobbili, in connection with his election campaign. The 1st respondent denied all these allegations.

45. Before we proceed to the facts, we may set forth the legal implications of an incorrect return of election expenses by a returned candidate. Section 76 of the Act provides for the submission of a return of election expenses within the prescribed time. Section 77 of the Act provides for the maximum scale of election expenses. This section has to be read with Rule 117 of the Rules framed under the Representation of the People Act, which, in its turn, refers to the maximum fixed in Schedule V. It is not denied that Rs. 8,000 is the maximum limit of expenses prescribed for an election to a State Assembly in the Andhra State in a single member constituency. Section 100(2)(b) of the Act provides that the Tribunal shall declare the election of the returned candidate to be void if he commits any of the corrupt practices described under section 123 of the Act. The corrupt practice relating to election expenses comes under section 123(7). It reads as follows:—

"The incurring or authorising by a candidate or his agent of expenditure, or the employment of any person by a candidate or his agent, in contravention of this Act or of any rule made thereunder."

Section 124 deals with minor corrupt practices and Section 124(4) deals with the return of election expenses. It reads as follows:—

"The making of any return of election expenses which is false in any material particular, or the making of a declaration verifying any such return."

Section 125 is as follows:—

"The following shall be deemed to be illegal practices for the purposes of this Act:—

- (1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate.

Explanation.—Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects

of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurred or authorised within the meaning of this clause."

Section 140 provides that corrupt or illegal practices specified in Sections 123, 124 and 125 shall entail the disqualification for membership of the Legislature of the State. From the foregoing sections it is clear that, if a major corrupt practice under section 123(7) of the Act is committed, the election is *per se* void, and the further question whether the election is materially affected or not would not arise. But, in the case of a minor corrupt practice under section 124(4) the petitioner has to show not merely that the corrupt practice alleged has been committed, but he must further show that the election was materially affected thereby.

46. Under section 83(2) of the Act, where corrupt practices are alleged, the petitioner must give a list of full particulars showing the names of parties alleged to have committed such corrupt practices and also the date and place of the commission of each of such practices. The incurring of expenditure by a candidate beyond the limits prescribed under the Act or Rules framed thereunder is a corrupt practice coming under section 123(7) of the Act. So, the petitioner must give in the list of particulars full details of the alleged items of expenditure not shown in the election return filed by a returned candidate and also the date when and place where such expenditure was incurred. He must further show that if such expenses were added to the return of expenses submitted by the returned candidate, it would exceed the prescribed limit. The burden of proving this is heavy on the petitioner. In a case coming under section 124(4) the corrupt practice is not the incurring of expenditure, but it is the making of a false return of expenditure. Section 44 of the Act reads thus:—

"Every election agent shall, for each election for which he is appointed election agent, keep separate and regular books of account, and shall enter therein such particulars of expenditure in connection with the election as may be prescribed."

The election agent is, therefore, enjoined to keep regular accounts of the particulars of expenditure incurred by him in connection with each election. Nothing is mentioned in this section as to the particulars of the receipts of money by the candidate or the sources from which he incurred the expenditure. Rule 111 reads thus:—

"The books of accounts to be kept by an election agent under section 44 shall contain a statement:—

- (a) of all payments made or authorised by the candidate or by his election agent or made on behalf of the candidate or in his interests by any other person with the consent of the candidate or his election agent for expenses incurred on account of, or in connection with, the conduct and management of the election, and
- (b) of all unpaid claims in respect of such expenses of which the candidate or his election agent is aware."

This rule also lays emphasis on the expenditure and not on the receipts. Rule 112 (2) provides that the election return shall be in Form 26 and shall contain the particulars specified in paragraphs 1 and 2 of Schedule IV. Paragraph 1 of Schedule IV requires that the receipts should be shown under a separate head. Paragraph 2 requires that the expenditure should be shown under the several heads mentioned therein. The form of declaration mentioned in Schedule IV requires that, while affirming to the truth of the return of election expenses, the election agent must further affirm that "except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purpose of candidature". The expression "election expenses" has nowhere been defined under the Act. The expression denotes the amount that has been spent for purposes of election. Section 44 of the Act and also Rule 111 refer only to the expenditure incurred by the candidate. Form 26 and Schedule IV refer to the giving of information regarding the receipts in respect of the expenses incurred for the election. But even here the emphasis is more upon the expenditure rather than on the receipts. So, what appears to have been materially required under the Act are the particulars relating to the election expenses rather than the sources of money from out of which the expenses have been incurred.

47. Under section 124(4) of the Act, it is the making of a false return of election expenses that has been held to be a minor corrupt practice and not a false return of election receipts. The receipts cannot be said to be material particulars in an election return.

48. We may now proceed to review the facts of the case so far as issues 8 to 11 are concerned. Regarding this aspect, the petitioner has examined P.Ws. 15 to 17 and the 1st respondent R.Ws. 14 to 16. P.W. 15 is Suvvari Sanyasi Apparao. He is a member of the Congress Party to which the 1st respondent also belonged. T. Sashi Bhushan Gupta R.W. 14 was the Joint Secretary of the District Congress Committee, Srikakulam District. At a meeting held on 2nd October 1954, the Executive of the District Congress Committee passed a resolution calling upon him to explain why he should not be expelled from the Congress Party as he was associating himself with "*Aikya Praja Udyamam*" and also to account for a sum of Rs. 250-2-0 said to have been lying with him. Ex. A25(a) is the resolution of the District Congress Committee relating to that. R.W. 14 did not account for these funds. R.W. 14 supported the candidature of one Garimella Ramamurthy of *Aikya Praja Udyamam* for Tekkali constituency. Challa Narasimham Naidu originally belonged to the Congress Party till 1952, but at the time of the elections in 1952 he rebelled against the Congress and stood as an Independent and opposed the Congress candidate. The Andhra Provincial Congress Committee debarred him for a period of 5 years.

49. During the last elections, the Andhra Provincial Congress Committee sanctioned a sum of Rs. 4,000 for election expenses in the district. In addition to this, the 1st respondent received Rs. 11,000 for his individual election expenses from the President of the Andhra Provincial Congress Committee. Other candidates in the district have also received contributions from the Andhra Provincial Congress Committee for their individual election expenses. On 15th September, 1955, there was a General Body Meeting of the District Congress Committee at Srikakulam and the 1st respondent was re-elected as the President of the District Congress Committee. In that meeting, this witness P.W. 15 was elected as the Secretary, and in the meeting the President was authorised to nominate the other office bearers of the District Congress Committee. The understanding at the meeting was that the other office bearers should be appointed by the 1st respondent in consultation with P.W. 15. Instead of doing so, the 1st respondent nominated his own group without consulting P.W. 15. This has enraged P.W. 15 and on his own initiative he called for another General Body meeting on 27th September, 1955. Ex. A27 is one such meeting notice. The 1st respondent sent a counter notice through Press (Ex. A28) asking the members not to attend that meeting. Both sides appear to have brought these internecine squabbles to the notice of the Andhra Provincial Congress Committee. The 1st respondent resigned his Presidency and the Andhra Provincial Congress Committee declared the calling of the meeting to 27th September, 1955 as being unconstitutional. So, no meeting was held on that day. P.W. 15 further says that there was no meeting of the District Congress Committee held on 14th September 1955 and that the minutes of that meeting noted in Ex. A25(c) were all written subsequently. After the meeting on 15th September 1955, the 1st respondent took away the minutes book and the account books with him and handed them over to his successor only on 10th October 1955. He deposed that Ex. A25(c) is a subsequent fabrication. He further deposed that the 1st respondent told him that Rs. 11,000 were given to him by the Andhra Provincial Congress Committee for his individual expenses and he also admits that the District Congress Committee spent money for election expenses in the entire district.

50. P.W. 16 Garimella Subrahmanyam is a clerk of the Andhra Provincial Congress Committee. Vijayawada, and he merely produced and filed Exs. A33 to A40.

51. P.W. 17 is the petitioner himself. He has no personal knowledge of either the receipts of money by the 1st respondent or the expenditure incurred by him. He says that Rs. 11,000 have been received by the 1st respondent from the Andhra Provincial Congress Committee under three cheques, Exs. A41, A42 and A43, and that they were all addressed in the individual name of the 1st respondent. On 29th December 1954, another cheque Ex. A44 for Rs. 1,000 was issued by the President of the Andhra Provincial Congress Committee in the name of the 1st respondent as President of the District Congress Committee. Exs. A46 to A49 show that amounts were sent to individual candidates by the Andhra Provincial Congress Committee for their individual election expenses. Ex. A53 is a booklet of *Aikya Praja Udyamam* wherein the name of Sashi Bhushan Gupta R.W. 14 was noted as the Vice-President. He further deposed that the pamphlets Exs. A54 to A63 were not accounted for in the election return of the 1st respondent. He admits that he cannot give details of what the 1st respondent actually spent and what he did not show in his election return.

52. R.W. 14 is Sashi Bhushan Gupta. He is the Joint Secretary of the District Congress Committee. In 1954 also he was the Joint Secretary. He says that he gave his explanation to the resolution Ex. A25(a) and that no further action.

was taken in the matter. He deposed that there was a meeting held on 14th September, 1955 of the District Congress Committee and that he attended that meeting, whereat he submitted a report of the moneys entrusted to him by the 1st respondent for the propagation of the election manifesto in the district. He deposed that he never left the Congress and joined the *Aikya Praja Udyamam*. He was never the Vice-President of the *Aikya Praja Udyamam*, and he does not know why his name was mentioned in Ex. A53. Ex. B5 is the circular appointing District Election Committees by the Andhra Provincial Congress Committee. The 1st respondent was a member of this Committee. Challa Narasimham Naidu was its Convener. He deposed that during the elections the Andhra Provincial Congress Committee sent a sum of Rs. 11,000 to the 1st respondent to be spent for propaganda of the election manifesto of the Congress in all the constituencies in the district. The 1st respondent gave him Rs. 10,000 to be spent for the above work, retaining with himself Rs. 1,000 for being spent by him as President of the District Congress Committee for the propaganda in the district. As the 1st respondent had his own individual election work to attend to, he asked this witness R.W. 14 to spend this amount of Rs. 10,000 in consultation with him. R.W. 14 spent this amount as per the vouchers Exs. B13, B14 and B16. The balance of Rs. 2,000 was credited to the District Congress Committee's accounts as per Ex. A26(c). This amount of Rs. 2,000 was paid from time to time to Challa Narasimham Naidu who is the Convener of the Election Committee for being spent for the propagation of the Congress election manifesto in the district. The total amount sent by the Andhra Provincial Congress Committee for this purpose is Rs. 13,000. R.W. 14 says that there was a meeting held on 14th September 1955, at Srikakulam of the District Congress Committee and that he attended that meeting, wherein he submitted a report showing the manner in which he has spent the sum of Rs. 10,000 entrusted to him by the 1st respondent. An office copy of the report is Ex. B17. He further deposed that the account books subsequent to the General Body Meeting held on 15th September 1955, were with P.W. 15 alone until they were handed over to the 1st respondent's successor. The vouchers for Rs. 10,000 and the office copy of the report submitted by him to the District Congress Committee on 14th September 1955 were produced by this witness at the time of his evidence. He says that he showed them all at the meeting on 14th September 1955 and took them back. He denied that there was any cash balance of Rs. 250-2-0 with him by the date of Ex. A25(a) and that he accounted for this amount to the District Congress Committee even before Ex. A25(a). He deposed that he saw Ex. B8 on 6th February, 1955.

53. R.W. 15 is the 1st respondent. He was the President of the District Congress Committee at the time of the elections. He deposed that he received from Sri B. Gopala Reddi, the President of the Andhra Provincial Congress Committee a sum of Rs. 11,000 through cheques Exs. A41, A42 and A43. Sri B. Gopala Reddi wrote Ex. B8 to him as to why and for what purpose these moneys were sent. By that time one T. Paparao was the Secretary of the District Congress Committee and R.W. 14 was the Joint Secretary. As T. Paparao was not selected as a candidate for the United Congress Front, he rebelled against the Congress. As R.W. 15 was busy with his own election work, he sent for R.W. 14 and gave him Rs. 10,000 to be spent for propagation of the election manifesto of the Congress in the district in consultation with him and under his directions. The remaining Rs. 1,000 was retained with him to be spent on behalf of the District Congress Committee in the district. Ex. B19 is the account showing how this amount of Rs. 1,000 was spent by him. R.W. 14 submitted a report, the original of Ex. B17, to the District Congress Committee Meeting held on 14th September, 1955 and it was accepted (Ex. A25-b). Exs. B13 to B16 were produced and shown at the meeting held on 14th September 1955. He said that he did not spend any money for his individual election expenses from out of the sum of Rs. 11,000 sent to him by the Andhra Provincial Congress Committee. Exs. A54 to A63 are the pamphlets issued by the Andhra Provincial Congress Committee for use in the entire Andhra State, and not for his individual election campaign. The entire expenditure in respect of them was met only by the Andhra Provincial Congress Committee and not by him. That was the reason why he did not show any expenditure pertaining to these pamphlets in his election return, Ex. B20. He swore that the election return submitted by him is true and correct in all respects and that he did not spend anything more than what has been mentioned in his election return. He also spoke to the personal bickerings between himself and P.W. 15 in the matter of the selection of the office bearers of the District Congress Committee in September 1955 and said that as a result of those personal quarrels P.W. 15 gave this false evidence against him. Ex. B18 is an account book maintained by him showing how the amount of Rs. 11,000 received by him from the Andhra Provincial Congress Committee was spent.

54. R.W. 16 is Sri B. Gopala Reddi, the then President of the Andhra Provincial Congress Committee at the time of the General Elections in January and February

1955. He stated that he sent to the 1st respondent as President of the District Congress Committee a sum of Rs. 11,000 by three cheques for the general Congress propaganda in Srikakulam district for all the constituencies. This amount was not sent for the individual expenses of the 1st respondent, in his election campaign. Ex. B8 is the letter sent by him to the 1st respondent regarding this matter. He stated that on account of the electoral alliance between the Praja Party, the Krishak Lok Party and the Congress at the time of the last elections, there was dissatisfaction among some of the Congress people who were not selected as candidates under the United Congress Front, and that some of them rebelled against the Congress and worked against the United Congress Front in the elections. He deposed that Ex. B5 was the circular sent by him appointing the District Election Committees. In the matter of issuing cheques for election expenses, he said that no particular procedure was followed and that the amounts for purposes of propagating the election manifesto of the Congress in general were sent sometimes in the names of individuals, sometimes in the name of the individual as President of the Committee and sometimes as President without any name. In all these cases the purpose was only for the general propaganda and not for individual election expenses. He swore that the 1st respondent never asked the Andhra Provincial Congress Committee for help for his individual election expenses and he was definite that no money was sent to him for that purpose. He further deposed that in the accounts of the Andhra Provincial Congress Committee the total amount spent for election alone was noted and not details. The representative of the All-India Congress Committee who brought to Vijayawada the Congress funds for election expenses was present when the moneys were distributed to the several districts and he noted the details in a separate book maintained by him. He stayed for a fortnight or more during the election campaign. The cheques sent by R.W. 16 were in consultation with that representative. As the representative made a note in his own account of the details of expenditure, the accounts of the Andhra Provincial Congress Committee do not show those details and the lumpsum figures alone were noted therein. The suggestion that Ex. B8 was written subsequent to the election petition was denied.

55. This, in brief, is a resume of the evidence on both sides on this point. The main question in this case is whether the 1st respondent has committed a major corrupt practice coming under section 123(7) of the Act by spending for his election expenses more than the prescribed limit of Rs. 8,000. As we stated above, the burden of proving this lies heavily upon the petitioner. Except making a vague allegation that a sum of Rs. 20,000 was spent by the petitioner for this election, there were no details given either in the petition or in the list of particulars as to how and for what purpose and at what times and places any amount in excess of that shown in the election return was spent. Section 83(2) of the Act reads as follows:—

“The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt or illegal practice which the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of each such practice.”

In this case, on an objection taken by the 1st respondent for want of details in the list of particulars appended to the petition, the petitioner submitted a further verified list with better particulars on 29th December 1955. In the said list the instances relating to the election expenses were described as follows:—

“12th instance.—The 1st respondent spent about Rs. 20,000 on his election and submitted a false return of election receipts and expenses.

13th instance.—The 1st respondent spent considerable sums of money on hand-bills, appeals, symbols, etc. He wilfully avoided accounting for the same.

14th instance.—On the day of polling the 1st respondent spent about Rs. 5,000 on his polling agents, clerks, messengers, etc., towards battas. Yet the 1st respondent showed a nil account under the head.

15th instance.—The 1st respondent spent much more on refreshments than what he has accounted for.

16th instance.—On 12th February 1955 the 1st respondent organised a procession of 60 pairs of yoked bullocks which paraded the streets in Bobbili. Men were treated lavishly and taken in the said procession. The 1st respondent spent three to four hundred rupees on the above account. The 1st respondent wilfully failed to enter the same in his return of election expenses.

17th instance.—The 1st respondent received a sum of Rs. 11,000 from the Andhra Provincial Congress Committee for election purposes and he utilised it for his election expenses and yet he did not account for the same in the return of election expenses.

18th instance.—The 1st respondent also received a further sum of Rs. 5,000 from a private source for his election expenses and he utilised the same for his election and yet he failed to account for the same."

The 18th instance was not pressed by the petitioner and was given up in the course of arguments.

56. It will be seen from the recitals in these instances that even after amendment, so late as 29-12-1955, the petitioner had not given the full particulars as required under section 83(2) of the Act. In a case decided by the Supreme Court, *Bhikaji Keshao Joshi and another v. Briglal Nandlal Bivani and others* (1) a similar question arose. As regards the election expenses, the allegation of the petitioner in that case was as follows:—

"1st respondent spent lakhs of rupees for his election transgressing the prescribed limit of Rs. 6000/-. He has given a totally untrue return of election expenses. This is in contravention of law."

While considering whether this allegation satisfies the requirements of s. 83(2) of the Act, Their Lordships observed as follows:—

"Section 83(2) requires not only what may reasonably be considered "full particulars" having regard to the nature of each allegation, but enjoins in terms that the following particulars should also be given:—

- (i) Names of Parties alleged to have committed the corrupt or illegal practice.
- (ii) The date of the commission of each corrupt or illegal practice.
- (iii) The place of the commission of each such corrupt or illegal practice.

There can be no reasonable doubt that the requirement of full particulars is one that has got to be complied with with sufficient fullness and clarification so as to enable the opposite party fairly to meet them and that they must be such as not to turn the enquiry before the Tribunal into a rambling and roving inquisition. One careful scrutiny of the list in Schedule A we are satisfied that none of the items except that which is set out in item No. 1, in para. 1 can be said to comply with the requirements of section 83(2)."

The allegation relating to the election expenses quoted above is item No. 9 in para. 1 and it is clear that Their Lordships have held that such an allegation does not satisfy the requirements of section 83(2). The present allegations in this petition regarding election expenses are also very vague and even in his further pleading the petitioner did not give any details. None of the instances 12 to 17 contains the requisite details for being met with by the 1st respondent. Instances 12 to 16 deal with major corrupt practices coming under section 123(7) of the Act and they are as vague as anything. Apart from this technical objection, even at the stage when the petitioner let in evidence on this matter, he did not put in any positive and tangible material in proof of these instances. His main stand throughout is that the Andhra Provincial Congress Committee sent to the 1st respondent Rs. 11,000 towards his individual election expenses, that it was not shown in the election return on the receipts' side, that it must be deemed that he should have spent this amount for his election purposes and that, if that were so, he had exceeded the prescribed limit.

57. As we observed supra, the gravamen of a corrupt practice coming under section 123(7) is not the submission of a false return or the omission of any items of receipts in the return, but the actual incurring of expenditure exceeding the prescribed limit. There was no attempt made by the petitioner to show as to how this sum of Rs. 11,000, even if it were sent by the Andhra Provincial Congress Committee for his individual expenses, was actually spent by him for his election campaign. He must give the details of the expenditure before he can bring this corrupt practice under section 123(7).

58. As regards the 13th instances, viz., spending considerable sums of money on hand-bills, etc., there is no evidence whatsoever on the side of the petitioner. He simply relied upon Exs. A54 to A63 which were pamphlets issued by the Andhra Provincial Congress Committee, for the entire election in the State. He has also not mentioned what exactly would be the amount spent for polling agents, etc., barring a sum of Rs. 5 alleged to have been given to P.W. 9 and a

(1) 1955 Supreme Court 61c.

sum of Rs. 3 to P.W. 7. There is absolutely no evidence to show that any sums were paid to these workers by the 1st respondent. The 1st respondent denied that he spent any money under this head. The 15th instance is also very vague and no evidence has been let in. As regards the 16th instance, except the bare allegation made in the petition, no evidence has been let in by the petitioner to prove this item of expenditure. It is the plea of the 1st respondent that the procession of yoked bulls was a voluntary effort on the part of the sympathisers of the Congress and that no money was spent by him under this head. Whatever that may be, there is no positive evidence on the side of the petitioner to prove that any sum, and if so, how much, was spent under this head.

59. The election return showed an expenditure of Rs. 4,900. To reach the maximum limit, there is still a margin of Rs. 3,100. It is not enough for the petitioner to say that the 1st respondent spent certain moneys for his election and that they were not shown in his election return. He must also show that the amount so spent, if added on to the amount mentioned in the election return, would exceed the prescribed limit. There was no such attempt made in this case. There is, therefore, no evidence worth the name to prove that the 1st respondent spent any amount towards his election expenses over and above that which has been prescribed by the Act or the rules framed thereunder. We accordingly find issue 11 against the petitioner.

60. The next point for consideration is, whether the election return filed by the 1st respondent is false in material particulars and as such is hit by section 124(4) of the Act. The petitioner's case is that the 1st respondent received a sum of Rs. 11,000 from the Andhra Provincial Congress Committee during the election period and also a sum of Rs. 5,000 from a private source and that he did not show these two items as receipts in his election return. So far as the item of Rs. 5,000 is concerned, the petitioner has given up his case. No evidence has also been let in regarding this item. This item is covered by issue 10. Issue 10 is, therefore, found against the petitioner.

61. The sum of Rs. 11,000/- is covered by issue 9, and the 1st respondent admits that he received this amount from the Andhra Provincial Congress Committee. But he pleads that it was sent by the President of the Andhra Provincial Congress Committee not for his individual election expenses but for the general propaganda of the election manifesto of the Congress in the district. This amount was received by the 1st respondent under three cheques, Exs. A41, A42 and A43. In proof of his contention, the petitioner has very strongly relied upon the accounts of the District Congress Committee and the Andhra Pradesh Congress Committee. Ex. A26 is the chittah of the Srikakulam District Congress Committee from 1st July 1953. Ex. A26(a) is a credit entry for Rs. 1,000 as a contribution from the Andhra Provincial Congress Committee to the District Congress Committee. Ex. A26(b) dated 23rd February 1955 is another contribution from the same body of Rs. 1,000. Ex. A26(c), dated 6th February 1955 is another contribution of Rs. 2,000 from the Andhra Provincial Congress Committee. Exs. A26(d), A26(e) and A26(f) are debit entries of Rs. 900, Rs. 500 and Rs. 300 respectively as having been paid to Challa Narasimham Naidu for meeting the election expenditure in the district. Challa Narasimham Naidu was the Convener of the Election Committee as can be seen from Ex. B5. It is admitted by the 1st respondent that the amounts covered by Exs. A26(a), A26(b) and A26(c) relate to the general election propaganda in the district. It is the case of the petitioner that when these donations from the Andhra Provincial Congress Committee for the general propaganda were noted in Ex. A26, the other amount of Rs. 11,000, if sent by the Andhra Provincial Congress Committee for the same purpose, would have also found a place in Ex. A26. Ex. A33 is the cash book of the Andhra Provincial Congress Committee, Vijayawada. Ex. A33(a) are the debit entries dated 10th January, 1955 under the head "General Election" of amounts sent to the several District Congress Committees in the Andhra State. For Srikakulam District a sum of Rs. 1,000 was debited as having been sent to Sri K. Sitharamaswami, the 1st respondent, under cheque No. 177763. This corresponds to the amount covered by Ex. A26(a). Ex. A33(b) are the entries dated 3rd June, 1955 showing under "Election Account" a sum of Rs. 63,282-0-6 as having been spent for individual propaganda and Rs. 13,089-6-0 for District Congress Committees. Ex. A35 is the ledger of the Andhra Provincial Congress Committee from 27-12-1954. Ex. A35(a) shows the Andhra Bank account from which a sum of Rs. 1,000 was drawn under cheque No. 177763. This corresponds to Ex. A26(a) and Ex. A33(a). The same thing is shown under Ex. A35(b) under the head of "General Elections". Ex. A35(d) shows a debit entry for Rs. 2,55,200 dated 2nd March 1955 as cheques issued to candidates etc. Exs. A35(e) and A35(f) correspond to the chitta entries Ex. A33(b). The entry relating to Ex. A35(b) for Rs. 2,55,200 was described in the chittah of the Andhra Provincial Congress Committee Ex. A33 at page 167 as follows:—

"To cheques issued to several persons (and candidates) etc. in elections as per statement of G. Subrahmanyam."

It is argued for the petitioner that the accounts of the Andhra Provincial Congress Committee are vague and uninformative and that barring the entry of Rs. 1000 corresponding to Ex. A26(a), the other sums admittedly received from the Andhra Provincial Congress Committee by the District Congress Committee were not specifically mentioned in the accounts of the Andhra Provincial Congress Committee. These amounts must have been included in one or other of Ex. A33(b) or Ex. A35(d). The chittah entry relating to the item of Rs. 2,55,200 shows that G. Subrahmanyam P.W. 16, who is the clerk of the Andhra Provincial Congress Committee, appended a statement showing the details of this item. This statement has not been filed by either side. The case of the petitioner is that when once it is admitted that Rs. 11,000 was sent by the Andhra Provincial Congress Committee to the 1st respondent for election expenses, the burden shifts on to the 1st respondent, who belongs to the Congress Party and who is a candidate set up on behalf of that party, to show from the accounts of the Andhra Provincial Congress Committee the purpose for which this amount was sent. He argues that this would be the best evidence in the case.

62. In proof of his contention that this amount of Rs. 11,000 was sent by the Andhra Provincial Congress Committee for general propaganda work in the district, the 1st respondent relies upon Ex. B8 and the evidence of Sri B. Gopala Reddi, the then President of the Andhra Provincial Congress Committee. Ex. B8 is a letter dated 31st January 1955 written by Sri B. Gopala Reddi to the 1st respondent as President of the District Congress Committee. In it it is stated that the amount of Rs. 11,000 covered by three cheques was sent for general propaganda of the Congress election manifesto in Srikakulam District. Sri B. Gopala Reddi, examined as R.W. 16, proves Ex. B8 and further deposes that this amount was sent not for the individual expenses of the 1st respondent but for the general propaganda in the district. He was definite that the 1st respondent did not ask for any help from the Andhra Provincial Congress Committee's funds and that nothing was paid to him, though for candidates in other constituencies that needed financial help certain amounts were given by the Andhra Provincial Congress Committee. It is suggested that Ex. B8 was got up subsequent to the filing of this Election Petition. But R.W. 16 flatly denied it. In Ex. B8 it was noted "herewith sending three cheques". Admittedly, one cheque was sent prior to 31st January 1955 and it was only two cheques that were sent along with Ex. B8. When asked to explain this discrepancy, R.W. 16 stated that what was uppermost in his mind was the total amount of Rs. 11,000 that he was sending to the District Congress Committee for general propaganda and not the number of cheques through which he sent this amount. He admitted that "Herewith sending three cheques" is not quite accurate.

63. The 1st respondent examined as R.W. 15 deposed that out of this amount of Rs. 11,000 received by him, he spent Rs. 10,000 through R.W. 14 and the balance of Rs. 1,000 was spent by him as President of the District Congress Committee only for the general election work in the district. He relied upon Exs. B18 and B19, the accounts maintained by him in connection with this amount of Rs. 11,000. Exs. B9 to B12 are the correspondence between him and R.W. 14 regarding the spending of this amount. Exs. B13 to B16 are the receipts for the moneys distributed by R.W. 14 for being spent in the other constituencies in the district. R.Ws. 14 and 15 say that the amount covered by Ex. A26(c) relates to the balance of Rs. 2,000 that remained with R.W. 14 after disbursing the amounts as per Exs. B13 to B16. It has been vehemently argued by the learned advocate for the petitioner that R.W. 14 is a man of doubtful antecedents and veracity and that he was not in the Congress at the time of the elections as he was called upon, under a resolution of the District Congress Committee, Exs. A25(a) dated 2nd October 1954, to explain why he joined the Aikya Praja Udyamam and not accounted for the sum of Rs. 250/2/0 that remained with him as Joint Secretary, that such a large sum of Rs. 10,000 could not have been spent through a person like R.W. 14 whose allegiance to the Congress Party was of a doubtful nature, that after the elections were over and after this Election Petition was filed the 1st respondent pressed him into his service and with his aid fabricated the minutes of the meeting dated 14th September 1955, when, in fact, no meeting was held on that date, and that Exs. B9 to B19 were got up to give a plausible explanation as to how this amount of Rs. 11,000 was spent.

64. Exs. B9 to B19 were filed during the course of the evidence of R.Ws. 14 and 15 and they were not brought from the proper custody in which they ought to be, viz., the District Congress Committee Office. The arguments of the learned advocate for the petitioner are not without force. Whatever that may be, we find no reason to disbelieve the evidence of R.W. 16 Sri B. Gopala Reddi and Ex. B8, the letter written by him on 31st January 1955 in this connection. He defi-

nately stated that the 1st respondent never sought the help of the Andhra Provincial Congress Committee for his individual election expenses and that the amount of Rs. 11,000 sent by him was only for the general election propaganda in the district. It is, no doubt, true that the accounts of the Andhra Provincial Congress Committee do not show this item of Rs. 11,000. But the accounts do not also show the details of any moneys sent to other District Congress Committees in the State for election expenses. They show only lump sum figures spent for general elections without any details. The accounts of the District Congress Committee also do not show the credit of this item of Rs. 11,000. The explanation of the 1st respondent for this is that he maintained a separate account Exs. B18 and B19 for this amount, the reason being that this amount was spent through the District Election Committee appointed under Ex. B5 and not through the District Congress Committee. We are not here concerned as to how this amount of Rs. 11,000 was spent and whether the accounts Exs. B18 and B19 are true and correct. The point for determination here is, whether this amount was received for election expenses of the 1st respondent, and if so, whether the election return was not false. In view of the evidence of R.W. 16 and Ex. B8, we hold that this amount was sent only for the general propaganda in the district. It has not been shown by the petitioner that this amount or any portion of it was spent for a particular purpose in respect of the 1st respondent's individual election. Though we are not satisfied with the evidence of R.Ws. 14 and 15 as to how this amount was spent, we feel that that question is not germane to this inquiry. We are of opinion that the election return is not a false one.

65. Even supposing that this amount of Rs. 11,000 was received from the Andhra Provincial Congress Committee by the 1st respondent for his individual election expenses, the further question that arises is, whether the non-showing of it in Ex. B20 amounts to a corrupt practice coming under section 124(4) of the Act. What is required by section 44 and Rule 111 is that the candidate should give the return of expenses incurred in connection with the election and not the source from which these expenses have been met with. It is true that in Form 26 and schedule IV, para 1, the candidate is asked to give the source of his expenses in his election return. But, we feel that it is not such a material particular, the omission of which could be hit by section 124(4). In this view also we hold that the 1st respondent has not committed any minor corrupt practice coming under section 124(4) of the Act. In the case of minor corrupt practices, it is not merely sufficient to show that such a practice had taken place. It has further to be shown whether, on account of that practice, the election has been materially affected. No material has been put before this Tribunal, nor has the learned advocate for the petitioner attempted to show before us as to how the non-inclusion of this Rs. 11,000 has, by itself, materially affected the election. He wants us to presume that these Rs. 11,000 must have been spent by the 1st respondent for his individual election expenses, and thereby come to the conclusion that the 1st respondent had spent over and above the prescribed limit. As we have held under issue 9 that the 1st respondent had not exceeded the prescribed limit in his expenses, we cannot accept this contention of the petitioner. If the non-showing of this item in Ex. B20 is coupled with the proof of any specific item of expenditure of the 1st respondent not shown in the election return, then the omission would lend great support to the petitioner's case. Here there is no such proof.

66. It has been further argued by the learned advocate for the petitioner that even though the amount sent by the Andhra Provincial Congress Committee was sent for general propaganda in the district, yet, the benefit of that expenditure went to increasing the prospects of the candidates in the election and that a proportionate amount of it, though not the whole, ought to have been shown in the election return. It has been admitted by the 1st respondent that a sum of Rs. 13,000 was spent for the general election propaganda in the district. There are as many as 16 constituencies in the district, and this amount must have been spread over all the constituencies. There is no direct evidence in this case, nor was any attempt made to show how much of this amount was spent in each constituency. The 1st respondent is a Congress candidate and when the main body of the Congress spent some amounts in his constituency also, though not specifically in furtherance of his candidature, but in furtherance of the general election manifesto of the Congress, yet when the propaganda was done during the election period, the fruits of this campaign must have furthered the prospects of the candidate and he, as a candidate set up by that political body, must be deemed to have incurred the proportionate expenditure in furtherance of his individual election. Though no specific evidence is adduced before us, as to the actual amount spent in the 1st respondent's constituency, yet, taking the amount spent and the number of constituencies in the district, we may

roughly say that the money equivalent of the general campaign of the Andhra Provincial Congress Committee in his constituency may come to Rs. 800. In his election return the 1st respondent has shown Rs. 4,900 as the amount spent by him towards his election expenses. Even if we add this amount of Rs. 800, it did not exceed the prescribed limit. We, therefore, find issues 8 and 9 against the petitioner.

67. Before we leave this topic of election expenses, we feel constrained to make a few observations about the method and the manner in which the accounts of the Andhra Provincial Congress Committee and its subsidiary bodies were maintained with regard to the election expenses for the State Assembly. The accounts of the Andhra Provincial Congress Committee give only a lump-sum figures of large sums running to some lakhs as having been spent for purposes of election. These amounts include moneys given to candidates for individual expenses, moneys sent to District Congress Committee for general propaganda and moneys spent by itself for election purposes. No details are given in these accounts as to how much money was sent to the candidates for individual expenses, how much money was sent to District Congress Committees for general propaganda and how much money was spent by itself. Curiously enough, even the District Congress Committee, which received these amounts, does not credit them in its regular accounts. The accounts of the District Congress Committee do not show how much money was spent in each constituency of the district. Nor do they show how much money was given to individual candidates for their election expenses. In all elections, when disputes arise after the election and the matters come before a Tribunal, the question of election expenses would generally be one of the grounds of attack. In a democratic country like ours, in which elections are run on party lines, and when the Provincial Committee of any party finances its candidates for election or itself incurs any portion of the expenditure, it is highly desirable that its accounts and the accounts of its subsidiary bodies should be very clear, giving all necessary details so as to avoid any comment from any quarter. These accounts are liable to scrutiny by the Tribunal when an election dispute comes before it. In the interests of the purity of elections, a well-organised body like the Andhra Provincial Congress Committee would do well to see that its accounts are maintained properly, setting out all the necessary particulars and details so as to give no scope for any adverse comment.

68. *Issue 13*—In view of our findings on the material issues, we hold that the election was not materially affected in any way for the reasons stated by the petitioner.

69. *Issue 14*—In the result, the petition is dismissed with costs of the 1st respondent, which we fix at Rs. 300 inclusive of his advocate's fee.

Dictated to shorthand-writer and pronounced in open Court, this 25th day of January, 1957.

(Sd.) T. H. M. SADASIVAYYA, *Chairman*.

(Sd.) C. NARASIMHACHARYULU, *Judicial Member*.

(Sd.) M. STHARAMAYYA, *Advocate Member*.

[No. 82/6/55.]

By Order,

DIN DAYAL, Under Secy.